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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/804,717	Applicant(s) TUPPER ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-97 is/are pending in the application.
- 4a) Of the above claim(s) 35-97 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8 and 23-27 is/are allowed.
- 6) ☒ Claim(s) 1,9-22 and 28-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 35-97 were withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Applicant timely traversed the requirement in the reply filed on July 27, 2007, with the requirement subsequently made FINAL in the last Office action.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “top wall” with regards to the usage as recited in claims 22 & 23 [line 2, respectively] must be clearly shown or the feature(s) canceled from the claim(s). No new matter should be entered. The position is taken that a “top wall” is not accounted for within the disclosure as originally filed, an argument could be made in reference to element (14), but the worksurface (14) is directed to a top member for a combined structure whereas the housing member (viewed as 16) appears to be devoid of a top wall in all the embodiments.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

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drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 1 is objected to because of the following informality: in line 13, it appears that the phrase "the at least one flange **off** the front wall" should be --the at least one flange **of** the front wall--. Appropriate clarification / correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 14 & 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The added material which is not supported by the original disclosure is as follows: "and wherein the face plate is supported solely by the front wall". Applicant is required to cancel the new matter in the reply to this Office Action.

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6. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
7. Claims 14-21 & 29-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 14 & 29 as presently amended are deemed to be misdescriptive of the elected embodiment since the specification on pages 26-27 clearly states “a plurality of screws 253 are then placed through the apertures 187 of the sidewalls 174 and are threadably received into apertures 254 of the pace plate 180, to thereby securely fasten the face plate 180 to the front wall 178”. As such, the new limitation that the face plate is supported **solely** by the front wall is inaccurate and unclear in view of the supporting disclosure. Consequently, the remaining claims are rejected since they are dependent upon an indefinite claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
9. Claims 1 & 9-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones [U.S. Patent 1,352,002]. Jones (figures 1-9) teaches of a drawer assembly (fig. 1), comprising: a bottom wall (13); a pair of sidewalls (11, 12) opposed across the bottom wall from one another and extending upwardly from the bottom wall; a rear wall (14) extending upwardly from the bottom wall and between the pair of sidewalls; a

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front wall (15) extending upwardly from the bottom wall between the pair of sidewalls and opposed across the bottom wall from the rear wall, the front wall including at least one laterally extending flange (viewed as the horizontal flange at the top of the wall) located proximate an uppermost edge thereof; and a face plate (10) having at least one laterally extending flange (viewed as the top inwardly facing vertical flange along the top of the wall – fig. 2) located substantially proximate an upper edge thereof; wherein at least a select one of a group consisting of the at least one flange of the front wall and of the at least one flange of the face plate includes a pair of flanges (viewed as the left and right vertical flanges below each end of the top inwardly facing flange of the face plate) defining a first gap therebetween {gap would be along the interior of these flanges}, wherein the at least one flange of the face plate is laterally spaced from an outermost edge of the perspective face plate (viewed as the outer front periphery edge as shown in fig. 1), and wherein the remaining one of the group consisting of the at least one flange of the front wall and the at least one flange of the face plate includes an outwardly extending first tab (26 of the front wall) that is received into the gap so far as broadly claimed, thereby coupling the face plate with the front wall {element 26 is received behind the top inwardly facing flange and would thereby be received in the gap so far as broadly claimed}. As to claim 9, the face plate further includes a pair of side tabs (16 for example) extending longitudinally along side edges of the face plate, and wherein the side tabs are secured to the sidewalls via (18). As to claim 10, the side tabs of the face plate are located inwardly of the sidewalls [such as when the connection is made – so far as broadly defined]. As to claim 11, the front wall includes a pair of tab members (25) extending forwardly from the side edges of the front wall, and wherein the tab members engage abutment surfaces (along slots

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(17) or surfaces of element (36) as depicted in fig. 5) of the face plate, thereby supporting the face plate from the front wall. As to claim 12, the tab members of the front wall are hook-shaped {depends upon the interpretation given to “hook-shaped” since the limitation does not impart any structural connotation}, thereby coupling the face plate with the front wall. As to claim 13, the drawer assembly further includes a locking mechanism (29, 30) operably mounted to the front wall and extending outwardly through a front surface of the face plate (fig. 7). As to claims 14-17, 19 & 21, the position is taken that these limitations have been addressed in the above rejections; additionally in claim 14, it appears that the face plate would be supported solely by the front wall in as much as applicant’s drawer assembly performs the claimed function and exhibits similar connection points when compared to Jones’s drawer assembly. As to claims 18 & 20, the tab members (25) of the front wall engage the side tabs (16) of the face plate.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 22 and 28-34 rejected under 35 U.S.C. 103(a) as being unpatentable over Jones and Gunzburg [U.S. Patent 3,649,095], in view of each other. Jones teaches of a drawer assembly substantially as claimed by applicant – see the above rejections that would inherently be utilized within a housing member for a practical application of the drawer assembly; while Gunzburg (figures 1-4) teaches the

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combined use of a conventional drawer assembly (20) within a storage cabinet (fig. 2), the cabinet of Gunzburg including a housing member (11) comprising side walls, a rear wall and a bottom wall (12, 14, 13, fig. 2) and a top wall (50 in as much as applicant depicts the claimed feature) cooperating to define an interior space and a forward facing aperture (fig. 2) providing access to the interior space for the sliding movement of the drawer. As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a housing member for the drawer of Jones as taught by Gunzburg because this arrangement would allow the drawer of Jones to be utilized in a manner complementary with its intended use i.e., a receptacle for slidably retaining items within a housed structure while safely protecting the contents of the drawer when in a housed position, wherein the lock mechanism would be able to engage the top wall via member (41) in a known manner. Conversely, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the drawer assembly as taught by Jones within the housing member of Gunzburg [substitute one drawer assembly for another] because this arrangement would provide Gunzburg with a drawer that is made up of parts that are detachably secured to one another so that they may be shipped in a knock-down configuration and then assembled on site, or may be disassembled for any other purpose, such as for repair or storage of the parts [Jones – page 1].

Allowable Subject Matter

12. Pending further review and consideration, Claims 2-8 & 23-27 are tentatively allowed.

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Response to Arguments

13. Applicant's arguments filed February 8, 2008 have been fully considered but they are not persuasive. The position is taken that all of applicant's remarks have been addressed in the above rejections to the claims. It is further noted that an enhanced description of assigned elements [concerning the newly proposed "laterally spaced" recitation] has been implemented as necessitated by applicant's amendments to the claims.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James O. Hansen/
Primary Examiner, Art Unit 3637

JOH
April 28, 2008